

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**



Ex parte TIMOTHY G. OFFERLE, CRAIG H. STEPHAN
and GREGORY P. BROWN

Application No. 10/708,677

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on April 10, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

The Examiner's Answer mailed November 29, 2005 is defective because in paragraph 8 it is stated, "no evidence is relied upon by the examiner." However prior art was applied. Appropriate correction is required.

An Information Disclosure Statements (IDS) was filed on March 7, 2005. It is not apparent from the record that the examiner properly considered the IDS submitted nor

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notified appellants of why his submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98. Proper consideration of the IDS is necessary to process this appeal.

Accordingly, it is

ORDERED that the application is returned to the Examiner to 1) list the prior art being relied on under the heading Evidence Relied Upon in paragraph 8 in the Examiner's Answer, 2) consideration of the above mentioned IDS, 3) written notification to appellant regarding the result of the examiner's consideration and 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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